



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Claim of Bradley G. Baxter

File: B-232686

Date: December 7, 1988

DIGEST

Neither government regulations nor the public necessity exception to the voluntary creditor rule authorizes reimbursement of Air Force crew member who reserved and paid for 12 motel rooms for crew members and maintenance personnel, which ultimately were not used because the personnel found other lodging, since the reservations were made absent any compelling need to act without delay to protect a legitimate government interest.

DECISION

Air Force Technical Sergeant Bradley G. Baxter requests reconsideration of his claim for \$248.50 for reimbursement of personal funds he spent to secure lodging for himself and other Air Force personnel. His claim was disallowed by our Claims Group on July 20, 1988 (Settlement Certificate Z-2865689). For the reasons given below, we affirm our Claims Group's decision and agree that the claimant should not be reimbursed. Furthermore, any amounts Sergeant Baxter has been reimbursed that are not attributable to his own lodging costs should be recovered.

Facts

The record shows that on April 2, 1987, Sergeant Baxter reserved 24 rooms for the night of April 7th at the Best Western Homestead Motor Inn in Homestead, Florida, for himself and other Air Force aircrew and maintenance personnel. Sergeant Baxter guaranteed the room reservation with his Diners Club card. The record suggests that Sergeant Baxter made the reservations with the approval of his flight commander, Captain Brawley.

Only 12 of the reserved rooms were used because some of the crew decided to stay at Homestead Air Force Base, and other personnel shared motel rooms. Sergeant Baxter apparently

044098/137502

was not aware of this--he states that he was not at the motel when the majority of people checked in--and did not cancel any of the room reservations. Since the motel had a policy that guaranteed room reservations must be canceled 72 hours in advance, Sergeant Baxter was required to pay for the 12 rooms that were not used at a rate of \$58.21 per room, a total of \$698.52.

Subsequently, Sergeant Baxter was paid his per diem and \$450 for the rooms that were not used. He requested an additional \$248.50 to cover the additional room charges. Upon reviewing his claim, the Air Force Deputy Director of Accounting and Finance concluded that the Air Force was not authorized to reimburse Sergeant Baxter any amounts other than those expended for his own lodging. The Deputy Director therefore did not approve the \$248.50 claimed, and he also recommended collection of the \$450 previously reimbursed.

On July 20, 1988, our Claims Group found reimbursement to Sergeant Baxter improper for any amounts other than those attributable to his own subsistence expenses. The Claims Group found that neither the Joint Federal Travel Regulations (JFTR) nor the public necessity exception to the voluntary creditor rule authorized payment. As discussed in more detail below, the voluntary creditor rule generally denies payment to individuals who make voluntary payments on behalf of the government, although payment can be made if it arises from a public necessity. See 62 Comp. Gen. 419, 420-24 (1983). The Claims Group also suggested that the personnel involved could have stayed at Homestead Air Force Base.

Sergeant Baxter now seeks reconsideration of the Claims Group's decision. He maintains that he had no control over the rooms not being occupied since he was not at the desk when the majority of his crew checked in. He also argues that under the voluntary creditor rule the public necessity exception applies to his case. In this regard, Sergeant Baxter states that in his last two trips to Homestead Air Force Base his crew had serious problems finding lodging, so that people had to wait 8 hours for rooms the first trip, and had to stay 45 miles away the second. Sergeant Baxter also asserts that the JFTR does not require personnel to use government quarters when the crew has a ground time of less than 24 hours.

Discussion

We see no basis for overturning our Claims Group's decision. Although Paragraph U4538 (formerly U4338) of the JFTR does

allow reimbursement of non-refundable room deposits when a member acts reasonably in obtaining lodging but is unable to occupy the lodging because of conditions beyond his or her control, this provision applies only to a member's own expenses. See 60 Comp. Gen. 630 (1981). It does not authorize reimbursement when a member makes room deposits for other individuals.

Nor do we think Sergeant Baxter can be reimbursed for the lodging costs under the public necessity exception to the voluntary creditor rule. We have stated that the measure of a public necessity is the extent to which the program or activity involved would have been disrupted had the voluntary creditor not taken prompt action. 62 Comp. Gen., supra, at 424. The purpose of this test is to limit reimbursement to cases where there is a real need to act without delay to protect a legitimate government interest--reimbursement should not be allowed where an individual purchases something mainly because he thinks it is desirable. Id. Another factor to consider in determining whether there is a public necessity is the extent to which the voluntary creditor acted on his own behalf or was induced or directed to act by a supervisor. To the extent the voluntary creditor acted by direction, a somewhat lesser standard of public necessity may be applied--even though the superior official may have been wrong, the burden should not fall on the subordinate who may have felt he had little choice. Id.

The record indicates that the reservations were made on Sergeant Baxter's initiative, albeit with Captain Brawley's concurrence, essentially for convenience, the crew having had some difficulty in finding lodging near Homestead Air Force Base on two prior occasions. Sergeant Baxter also has indicated, however, that on other occasions traveling to Homestead Air Force Base he did not have a problem in finding accommodations. Furthermore, the reservations were made 5 days in advance of the aircrew's stay at the motel, at a point when it was not at all clear that they would be needed--it appears that Sergeant Baxter made the reservations without either him or Captain Brawley attempting to determine availability of lodging at the Base. In this regard, paragraph 4-33 of Air Force Regulation 177-103 (Nov. 15, 1986) states that "available government facilities must be used to the maximum extent possible including periods of [temporary duty] of less than 24 hours"; we note that this requirement was written into Sergeant Baxter's travel authorization.

In sum, there is no regulatory authority to reimburse Sergeant Baxter for other than his own lodging expense.